**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE V.GIRI**

**WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929**

**WP(C).No. 19080 of 2007(U)**
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**PETITIONER:**
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**T.SHOBANA, W/O. SAJEEVAN, AGED 45 YEARS,**
**OOLIKKUNDATHILS HOUSE, PURAPUZHA,**
**THODUPUZHA, IDUKKI DISTRICT.**

**BY ADV. SMT.K.K.CHANDRALEKHA**
**SRI.SUDHEESH THAROL**

**RESPONDENTS:**
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1. **THE VILLAGE OFFICER,**
   **PURAPUZHA VILLAGE, THODUPUZHA, IDUKKI DISTRICT.**

2. **THE ADDITIONAL TAHASILDAR,**
   **THODUPUZHA, IDUKKI DISTRICT.**

3. **THE DISTRICT COLLECTOR,**
   **IDUKKI DISTRICT.**

**BY GOVERNMENT PLEADER SRI. MATHEW VADAKKEL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

*KSS*

**WPC.NO.19080/2007 U**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF THE ASSIGNMENT ORDER DTD. 16/12/78.**

**EXT.P2:** **COPY OF THE INTIMATION DTD. 24/03/1994 BY THE DISTRICT COLLECTOR ADDRESSING THE SECRETARY, BOARD OF REVENUE.**

**EXT.P3:** **COPY OF THE ORDER DTD. 26/04/2007.**

**/TRUE COPY/**

**P.S.TO JUDGE**

*KSS*

# V.GIRI, J.

**W.P.(C).No.19080 of 2007 U**

**Dated this the 7th day of November, 2007.**

## JUDGMENT

Petitioner was assigned a land having an extent of 12.95 ares in Survey No.603/2B1 of Vazhithala Village, as evidenced by Ext.P1. Apparently, there were teak trees standing in the property. It seems that 5 trees were cut and removed by certain persons. According to the Department this was done by the petitioner, one Challappan and one Narayanan Nair, who was the Purapuzha Village Officer, at that point of time. There was also an allegation that the former Tahsildar Mr.Raveendran, had then transported the trees to Chingavanam for his private use.

2. A notice was issued to the petitioner and others under Section 10 of the Kerala Land Conservancy Act. Apparently, thereafter, the petitioner entered appearance before the Additional Tahsildar through a counsel. After a few postings, Ext.P3 came to be passed imposing a penalty of Rs.200/- and determining an amount of Rs.10,44,190/- as the value of the trees. Demand notice was also issued for the said amount. Ext.P3 is under challenge in this writ petition.

3. A perusal of Ext.P3 shows that it is issued in a cyclostyled form and does not contain a specific finding, evaluating the guilt or complicity of the petitioner. The nature of the proceedings under Section 10 of the Land Conservancy Act has been held to be quasi-criminal in character in the decision reported in **State of Kerala v. Sreedharan Nair {1998(1) KLT 524}.** The manner in which the proceedings will have conducted was explained by this court in **Sasidharan v. District Collector {1978 KLT SN 27 Case No.76}**. In the light of the law laid down by this court in the aforesaid decisions, I find that the requirements of the Section has not been complied with, in passing Ext.P3 order. The matter requires to be reconsidered by the competent authority.

4. But, I note that the petitioner was also not diligent before the Additional Tahsildar. Apparently, several adjournments were taken and ultimately the Additional Tahsildar proceeded to pass Ext.P3 order. In the circumstances, the petitioner should be put on terms.

In the result, the writ petition is allowed in part. Ext.P3 is set aside. The 2nd respondent shall issue a fresh notice to the petitioner under Section 10 of the Act, within a period of one month from the date of receipt of a copy of this

judgment, which the petitioner shall produce before the 2nd respondent within two weeks of its receipt. Petitioner will be given an opportunity of filing objections thereto within one month from the date of receipt of the same. An appropriate enquiry shall be conducted by the 2nd respondent and fresh orders may be passed. The entire process shall be completed within four months from the date of receipt of a copy of this judgment. But, I make it clear that the direction to the effect that Ext.P3 is being set aside will be operative only if the petitioner pays an amount of Rs.10,000/- as costs, by depositing the same before the District Collector -3rd respondent, within a period of one month from the date of receipt of a copy of this judgment. If the costs are not paid as mentioned above, Ext.P3 will stand confirmed and the respondents will be entitled to take further action in relation thereto.

Sd/-

**(V.GIRI)**

**JUDGE**

sk/

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